## **EXHIBIT A**

## UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

\* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

LIBERTY MUTUAL INSURANCE

COMPANY

Plaintiff

VERSUS \* CA-96-10804-DPW

BLACK AND DECKER CORP.

Defendant

\* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

BEFORE THE HONORABLE DOUGLAS P. WOODLOCK

UNITED STATES DISTRICT COURT JUDGE

HEARING

OCTOBER 30, 1998

## **APPEARANCES:**

RALPH LEPORE, ESQ. AND ROBERT A. WHITNEY, ESQ., Holland & Knight, LLP, 18 Tremont Street, Eighth Floor, Boston, Massachusetts 02108, on behalf of Plaintiff

JACK R. PIROZZOLO, ESQ. AND RICHARD L. BINDER, ESQ., Willcox, Pirozzolo & McCarthy, 50 Federal Street, Boston, Massachusetts 02110, on behalf of Defendant

Courtroom No. 1 - 3rd Floor 1 Courthouse Way Boston, Massachusetts 02210 2:40 P.M. - 4:10 P.M.

Pamela R. Owens - Official Court Reporter
1 Courthouse Way - Suite 3200
Boston, Massachusetts 02210

ALSO PRESENT: Linda Biagioni

Method of Reporting: Computer-Aided Transcription



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MR. PIROZZOLO: I know Your Honor has not 2 imposed that on us and I appreciate your not doing it at 3 this point.

THE COURT: No. You impose it on yourselves. 5 All right. I think this is going to be the fastest way to 6 get through this --

MR. LEPORE: I think it is, Your Honor.

8 THE COURT: -- without making excathedra pronouncements in this area that will not be helpful.

MR. LEPORE: Your Honor, may I ask a question?

11 THE COURT: Sure.

10

MR. LEPORE: With respect to the lost policy or 12 13 long-term exposure things, do you want any discussion 14 about that?

15 THE COURT: No, I don't want to deal with that. 16

MR. LEPORE: Fine.

THE COURT: I don't want anymore briefing on 17 17 18 that.

19 MR. LEPORE: No, that's not what I meant. But 20 do you want to schedule a hearing for that or do you want 21 to just hold off for now?

THE COURT: Let's talk about it later. 22

MR. LEPORE: Fine. 23

THE COURT: But let me just ask: Have there 24 25 been any changes since the last hearing and the matters 1 whenever you're ready.

THE COURT: Well, does it make sense for you --3 I have grazed on your submissions, but I have not fully 4 masticated them.

MR. PIROZZOLO: Your Honor --

MR. WHITNEY: The main issue just focuses, I 7 think, on basically three of the major claimants and 8 basically two different cost-sharing agreements.

THE COURT: Well, do you want to talk about it 9

10 on the 8th?

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MR. LEPORE: That's fine.

12 MR. WHITNEY: Well, that's why we wanted to 13 know. I can be prepared to do that if you'd like.

MR. WHITNEY: It will probably take a little

THE COURT: Right. 14

time just because there's numerous -- as you've seen, there are several documents to go through. We can be prepared to do that and then move directly on to the BROS

site if you'd like.

20 THE COURT: Well, if we're really talking about 21 four sites --

22 MR. LEPORE: Yes.

23 MR. WHITNEY: I'm sorry, the BROS and then the 24 ones after that.

THE COURT: Right.

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1 that are in dispute? We took some sites off the list, 2 that sort of thing.

MR. PIROZZOLO: I don't think anything 4 significant. No. I don't think anything. Just off hand, 5 I can think of no changes as to something being closed

THE COURT: Yes. 7

MR. PIROZZOLO: I don't think so. It's all pretty much the same stuff.

10 THE COURT: And with respect to the long-term 11 exposure cases, are they just sitting there; is that it?

12 MR. PIROZZOLO: Well, three cases are disposed 13 of, so we're dealing with the money.

14 MR. LEPORE: Right.

MR. PIROZZOLO: And two are ongoing. And I 15 16 don't know, as we speak, the specific status of those.

17 MR. WHITNEY: We really can't comment. We've 18 been provided with no updated documents for a couple of 19 years. My assumption is they are ongoing on some low 20 burner level at this point. We haven't been provided -21

THE COURT: Your mean short money involvement?

MR. LEPORE: Yes.

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MR. WHITNEY: I'm assuming so. Yes. And it's 23 24 mostly the defense costs, I think, that are at issue that 25 we were going to address today, but we'll address them

MR. PIROZZOLO: So, I mean, those are -- there's 2 a lot there. Your Honor, we have submitted to the other

3 side and also filed substantial numbers of the bills. But

4 I'm not sure -- I'm not confident all of the bills are in 5 the record. And I'm not confident all of the bills -- I

6 am confident all of the bills have not been submitted to

7 the other side. And in the back of my mind has been the 8 idea that we would pretty readily come to agreement on the

9 amounts once liability for defense or indemnification is

10 adjudicated. And that if there are disputes, that they

11 could be pointed or sharpened for the Court. And there is 12 a little peril to that, although peril to Libery Mutual,

13 that we've put the bills in and they haven't rebutted

14 them. But we could bring the record right up to date 15 between now and -- but it would be a huge amount of

16 paperwork and I'm not sure that it will serve --

THE COURT: Unless it serves some collateral 18 purpose of advancing settlement discussions, it seems to 19 me that's the last thing that I'm going to get to.

MR. PIROZZOLO: I think that seems to me to be 21 very practical. There may be some specific disputes and 22 those could be articulated. In other words, it's just 23 lawyers' bills and consultants' bills, and they are 24 voluminous. It's more of an auditing or an accounting 25 issue.

PAMELA R. OWENS, FEDERAL COURT REPORTER 1 COURTHOUSE WAY, BOSTON, MA 02210 (617)443-0008 BLACK & DECKER

**OCTOBER 30, 1998** Page 58 THE COURT: I don't need anymore paper on this. 1 MR. PIROZZOLO: So, no more paper. I just want 3 to make sure that we're not --THE COURT: But that's the last -- truly the 5 last thing that I'm going to reach, I believe, in this 6 area. MR. PIROZZOLO: In answer to the Court's 8 question, we haven't brought the figures up to date, 9 although I will try and get a pretty good idea of what it 10 is without papering the record. MR. LEPORE: That's fine. 11 THE COURT: Tell them, but don't tell me yet. 12 MR. PIROZZOLO: And let them know what it is. 13 THE COURT: But we will take up the long-term 14 15 disability. MR. LEPORE: It shouldn't take more than -- I 16 17 mean, a lot of time. THE COURT: Okay. So we'll try and deal with 18 19 that first out and then take up the rest of these. And 20 we'll do that on the 8th. We'll do it on the 8th, but 21 hold open as well the llth in the afternoon, Friday. 22 MR. WHITNEY: December 11th. 23 THE COURT: So, I have gotten those two dates 24 available for this. MR. LEPORE: Great. 25 Page 59 MR. WHITNEY: I'm sorry. The same time, 1 2 2 o'clock? THE COURT: Yes, 2 o'clock. 3 MR. LEPORE: Thank you, Your Honor. MR. PIROZZOLO: Thank you, Your Honor. THE COURT: Thank you very much. We'll be in 6 7 recess. RECESSED AT 4:10 P.M. CERTIFICATE I, PAMELA R. OWENS, Official Court Reporter, 12 U. S. District Court, do hereby certify that the foregoing 13 is a true and correct transcription of the proceedings 14 taken down by me in machine shorthand and transcribed by 15 same. I certify that the transcript fees charged and the 16 page format used by me comply with the requirement of 17 this Court's court reporter plan and the requirements of 18 the Judicial Conference of the United States. 19 20 21 22 23

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HEARING